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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Woodard, Emhardt, Moriarty, McNett & Henry LLP  
Bank One Center/Tower  
Suite 3700  
111 Monument Circle  
Indianapolis, IN 46204-5137

EXAMINER

RIVERA, WILLIAM ARAUZ

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,733

Applicant(s)

MYERS, DOYLE R.

Examiner

William A. Rivera

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because in Figure 3 reference character “58” has been used to designate both the interior chamber and the perimeter flange. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because In Figure 4, there is a bolt or screw without a numeral and/or lead line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet”

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or “New Sheet” pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 4 is objected to because the term “*plunger*” lacks antecedent basis in the specification.

Claim 10, line 1, the word --to-- should be inserted between the words “is” and “be”.

Claim 11, line 3, the extra period should be deleted.

Claim 15, line 3, the slash “/” between the words “cylindrical” and “shape” should be deleted.

### ***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> Paragraph,***

Claims 6 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6, line 1, the term “hand” brake has no antecedent basis in the claim.

Claim 9 is vague and indefinite. On lines 2-3, the phrase “an insert forming said opening” is unclear. How does an insert form an opening?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Biba (U.S. Patent No. 5,173,067).

With respect to Claims 1-9, Biba, Figures 1-4, teaches Biba (U.S. Patent No. 5,173,067) teaches a housing 20 having an interior chamber with an opening 88 to the exterior of said housing; a reel 28; an elongated, flexible lifting member 30 wound around said reel and extending through said opening, said lifting member having a length substantially longer than the reach of an operator; a device 148 on the end of said flexible member; a spring yieldably rotating said reel to wind said flexible member around said reel, said spring having a predetermined stiffness such that it winds said flexible member onto said reel when an object is not connected to the end of said flexible member; a brake 94 wherein said brake comprises an operator manipulated element 99 selectively inter-engageable with one of a plurality of circumferential recesses (between elements 110); said operator manipulated element comprises a plunger extending from said housing; said housing has a handle 90 and an opening adjacent said handle of sufficient size to accommodate the gloved hand of an operator; said plunger for said hand brake is adjacent said handle for single-handed holding; a spring 108 for urging said plunger to a disengaged position; the housing is formed from two halves 22,24; said housing halves has opposed openings, said object lifting device further comprises an insert (near 146).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Biba (U.S. Patent No. 5,173,067).

With respect to Claim 10, Biba is advance above. Biba teaches all the elements of the lifting device except for a circular opening. It would have been obvious to one of ordinary skill in the art to provide Biba with a circular opening rather than rectangular because such a configuration would conform to the shape of the cord as well as confining the cord within the circular region thereby allowing for an even winding of the cord.

Claims 1, 8, and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al (U.S. Patent No. 3,233,591).

With respect to Claims 1, 8, and 11-16, Rogers et al teach a housing 10 having an interior chamber with an opening 18 to the exterior of said housing; a reel 22; an elongated, flexible lifting member 20 wound around said reel and extending through said opening, said lifting member having a length substantially longer than the reach of an operator; a device 24 on the end of said flexible member; a spring 28 yieldably rotating said reel to wind said flexible member around said reel, said spring having a predetermined stiffness such that it winds said flexible member onto said reel when an object is not connected to the end of said flexible member; said housing is formed from two halves 14, 16. Rogers et al teach all the elements of the lifting device except for an elevated platform. However, it would have been obvious to one of ordinary skill in the art that element 26 is not limited to the wrist. As such, it would have been obvious to one of ordinary skill in the art that element 26 could be placed on an elevated platform, such as a tree branch, for the purpose of resting.

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Claim 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al as applied to claims 1, 8, and 11-16 above, and further in view of Kang (U.S. Patent No. 4,944,097).

With respect to Claims 17 and 18, Kang, Figures 1-3, teaches a clip 104, said clip is positioned in one of a plurality of orientations. Note that a screw holds the clip of Kang. Unscrewing this screw would allow the clip to be placed in any orientation. As such, it would have been obvious to one of ordinary skill in the art to make the clip adjustable because such would allow the user to place the device in any orientation depending on the application.

### ***Conclusion***

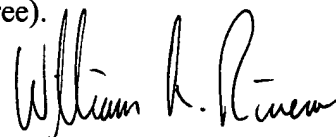
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William A. Rivera whose telephone number is 571-272-6953. The examiner can normally be reached on Monday to Friday - 7:30 to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "William A. Rivera". The signature is fluid and cursive, with the first name "William" and last name "Rivera" clearly distinguishable.

**WILLIAM A. RIVERA**  
**PRIMARY EXAMINER**

January 9, 2006